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Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

January 1987

REDUCTION-IN-FORCE ACTIVITIES

Department of Energy's Actions Generally Comply With Requirements

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Resources, Community, and
Economic Development Division

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January 30, 1987

The Honorable John D. Dingell
Chairman, Subcommittee on Oversight
and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

At your request we have evaluated Department of Energy (DOE) reductions-in-force (RIF) and related contract-out actions at two DOE program offices—the Western Area Power Administration (Western) and the Morgantown Energy Technology Center (Morgantown Center). Specifically, you asked that we examine the legality, adequacy, and appropriateness of their (1) use of the Office of Management and Budget's (OMB) Circular No. A-76, Performance of Commercial Activities, in making cost comparisons between in-house and contract-out work and (2) RIF and contract-out actions. You also requested that we assess the reasonableness of various reported cost savings and estimates developed by the two program offices and whether the offices carried out their actions properly and fairly.

In summary, we found that the actions of the two program offices generally complied with A-76 requirements. The one exception was that Western officials did not fully comply with the requirement to inventory or schedule for review all potentially affected positions prior to contracting out the work of those positions. As a result all interested parties, such as affected employees and employee unions, may not have been informed of planned or potential contracting actions.

A-76 cost comparisons were not required for the positions covered in our review because Western engaged contractors under the preferential procurement program for services, and both Western's and Morgantown Center's affected workers were employed in small activities (organizational units with fewer than 10 full-time equivalent positions). Thus, although informal cost comparisons at Western showed that contract-out decisions involving three positions were not cost-effective, Western officials were not required to base their decisions strictly on cost-effectiveness considerations. The bases for the reported cost savings and estimates developed by the two offices, however, appeared reasonable. With respect to their RIF and contract-out actions, it appears that both Western and Morgantown Center officials properly implemented

the actual RIF process and acted within A-76 guidelines in making their contracting-out decisions.

We also determined that as a result of its RIF and contract actions, Western only partly achieved DOE's stated objectives of increased efficiency, productivity, and cost reductions expected to result from the ceiling reduction. By contracting for most of the work previously done by employees, Western, in effect, reduced its costs by less than 3 full-time equivalent positions instead of the 13 positions involved in the DOE-directed ceiling reduction.

Program Office Actions

Western sought to abolish a total of 13 staff positions in fiscal year 1986, which resulted in subsequent RIF and contract actions. According to Western officials, the RIF actions were prompted by an ongoing position management review but were also undertaken in response to a personnel-ceiling reduction imposed by DOE. Western officials concluded that some staff positions should be abolished and the work of those positions contracted out. Following a review of the positions, Western abolished 1 position without subsequent contract action and established or planned for contractual arrangements with several commercial firms to do the work of the remaining 12 employees. Western officials said that several factors influenced their decisions to contract for this work. The factors included (1) the availability of on-site contractors who were already performing similar work, (2) the provision of contract opportunities for minority and small business firms, (3) accomplishing the organizational mission under a reduced personnel ceiling, and (4) the reduction of costs by contracting out the work.

Morgantown Center abolished five staff positions in fiscal year 1986, which resulted in subsequent RIF and contract actions. According to Morgantown Center officials, their RIF actions were prompted by a management and cost study of its Fabrication and Assembly Shop. Morgantown Center officials said that the management study indicated that by changing some work methods and reducing the amount of overtime, the work could be accomplished with fewer staff resources than were being used and that the work was commercial in nature and could be contracted out. Although not required to do so because of the small organizational unit involved, Morgantown Center officials did a cost study that compared the estimated cost of in-house and contractor performance of the work. After concluding that the contractor estimates were economically and technically feasible and were more cost-effective than in-house

performance of the work, the officials initiated applicable RIF procedures and contracted with an on-site contractor by adding the fabrication and assembly function as a subtask under the existing site support services contract.

Additional details related to these issues are provided in appendixes I and II.

In responding to your request, we examined the relevant procedures followed by the program offices in conducting the A-76 reviews, the RIF actions, and the subsequent contract awards. We reviewed the cost estimates and reported cost savings resulting from the cost comparisons between in-house and contract-out work efforts and the appropriateness of the type of contract or contract modification used. We also interviewed several affected former Western employees, DOE and Office of Personnel Management officials, and the Deputy Associate Administrator, Office of Federal Procurement Policy, OMB. Appendix I contains a more detailed description of our objectives, scope, and methodology.

We discussed our findings with DOE program office officials and have included their comments where appropriate. However, as requested by your office, we did not obtain the views of responsible officials on our conclusions, nor did we request official agency comments on a draft of this report. With this exception, our work was performed in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce the report's contents earlier, we plan no further distribution until 30 days from the date of this letter. At that time we will send copies to the Secretary, Department of Energy; the Director, Office of Management and Budget; and interested congressional committees. We will also make copies available to others upon request.

This work was performed under the direction of James Duffus III, Associate Director. Other major contributors are listed in appendix III.

Sincerely yours,

J. Dexter Peach

J. Dexter Peach
Assistant Comptroller General

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Abbreviations

A-76	Circular No. A-76, Performance of Commercial Activities
A-64	Circular No. A-64, Position Management Systems and Employment Ceilings
DOE	Department of Energy
GAO	General Accounting Office
OMB	Office of Management and Budget
RCED	Resources, Community, and Economic Development Division
RIF	reduction-in-force

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Department of Energy Reduction-In-Force and Contract-Out Actions

Objectives, Scope, and Methodology

At the request of the Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, we examined the RIF and contracting decisions at two DOE program offices—the Western Area Power Administration and the Morgantown Energy Technology Center.

We evaluated the appropriateness of Western's and Morgantown Center's RIF and contract actions, as well as their contract-out cost comparison studies, on the basis of OMB's Circular No. A-76, Performance of Commercial Activities and other relevant federal regulations. During the period May through October 1986, we assessed Western's and Morgantown Center's implementations of the A-76 requirements as they related to the two program offices' RIF and contracting decisions. We evaluated the reasonableness of various reported and estimated cost savings on the bases of A-76 cost study criteria and evaluated the propriety of Western's and Morgantown Center's RIF actions on the basis of Office of Personnel Management requirements and procedures cited in 5 C.F.R. 351. Additionally, we assessed whether the offices' contract modifications were within the scope of the original contracts and made pursuant to "changes" clauses in the contracts. We also assessed the propriety of blanket purchase agreements entered into by Western pursuant to 48 C.F.R. section 13.2 (1986). Further, we verified the eligibility of Western contractors for preferential procurement programs by contacting the Small Business Administration.

In conducting our evaluation, we interviewed DOE officials at DOE headquarters in Washington, D.C., and cognizant Western and Morgantown Center officials. We also interviewed some of the affected former Western employees and the Deputy Associate Administrator, Office of Federal Procurement Policy, OMB, and discussed our findings with Office of Personnel Management officials in Washington, D.C.

Background

Western is one of five power marketing agencies in DOE that sell electric power produced in the United States. To carry out its portion of the federal power marketing program, Western's organization consists of a headquarters office in Golden, Colorado, and five area offices located in Billings, Montana; Boulder City, Nevada; Loveland, Colorado; Sacramento, California; and Salt Lake City, Utah. Additionally, there are five district offices and one Power Systems Operations Office. At the end of fiscal year 1985, Western employed 1,400 full-time equivalents, or about 8 percent of DOE's total work force.

In fiscal year 1986, as the result of a review of its work force and a DOE-imposed personnel ceiling reduction, Western sought to abolish 13 staff positions in its 5 area offices and contracted with several commercial firms to accomplish work that had been previously assigned to its employees in those offices. In the 3 preceding fiscal years, 1983 through 1985, Western took two RIF actions.

Morgantown Center is a DOE research facility located in Morgantown, West Virginia. The center develops technology to extract, convert, and utilize fossil energy in an environmentally acceptable way. The thrust of Morgantown Center's research program is to develop the scientific and engineering knowledge base that will allow industry to commercialize new technologies. Morgantown Center personnel not only conduct research in fossil energy technologies; but many, as contract managers, also oversee Morgantown Center-sponsored projects conducted by corporations, academic institutions, and state agencies. Year-end fiscal year 1985 staffing consisted of 266 full-time equivalents, or about 2 percent of DOE's total work force.

In fiscal year 1986, as the result of a review of its work force, Morgantown Center abolished five staff positions in its Fabrication and Assembly Shop and contracted with a commercial firm to accomplish work that had been previously assigned to federal employees. From fiscal years 1983 through 1985, Morgantown Center took two RIF actions.

Guidance Provided to Agencies in Personnel and Contracting Areas

General guidelines for administering and managing program activities have been made available to executive agencies. The general thrust of these guidelines is to ensure that federal programs are run as fairly, efficiently, and economically as possible. They do, however, provide program managers a certain degree of flexibility to meet specific needs.

Management Guidance Provided by OMB

OMB has provided instructions and guidance for executive branch agencies to use in assessing the efficiency and effectiveness of their operations. Two such instructions are OMB Circular No. A-76, Performance of Commercial Activities, and OMB Circular No. A-64, Position Management Systems and Employment Ceilings.

A-76 Guidance

A-76 provides procedures to be followed by federal agencies in determining whether commercial activities should be operated under contract

with private-sector sources or performed in-house using government facilities and personnel. A-76 requires, among other things, that an agency (1) determine which of its activities are strictly governmental, such as foreign relations, and therefore not subject to other than in-house performance, (2) develop and schedule for review an inventory list of functions that it considers nongovernmental or commercial, and (3) determine whether the activity should be retained in-house or contracted out.

In order to make these determinations for existing activities, agencies are required to go through a series of decision points as outlined in appendix II. Of particular importance to our examination are the requirements to (1) inventory commercial activities, (2) determine whether a mandatory source or preferential procurement program is involved, (3) determine whether a small (fewer than 10 full-time equivalent positions) activity is involved, and (4) ensure that contract prices are reasonable when small activities are involved. (See blocks 2, 8, 9, and 11 of fig. II.1.)

An OMB official told us that with respect to (4) above, contract costs may be deemed reasonable in this regard when two or more firms in a local area can provide the required services. The official said that an agency can assume that the existence of more than one firm indicates competition, which will ensure reasonable prices. Accordingly, in those instances, a formal cost comparison consisting of, among other things, a determination of the optimal organization required to perform the work is not required. However, OMB has not formally issued this clarification of A-76, and agencies appear to have substantial discretion in determining fair and reasonable contract prices when small activities are involved.

It is important to note that, as indicated in fig. II.1, the decision to convert government commercial functions to contract performance can be reached without a cost comparison if (1) the contract will be awarded under a preferential procurement program (such as those encouraging small, minority, and disadvantaged businesses), (2) fewer than 10 full-time equivalent positions are involved in the activity and contract cost is deemed reasonable, or (3) if the requirement for a cost study is waived at the Assistant Secretary level or above.

A-64 Guidance

A-64 establishes guidelines for the uniform development, implementation, and administration of effective position management programs. Among

other things A-64 requires agencies to establish control procedures to ensure that approved employment ceilings are not exceeded, employment requirements are continuously reviewed, authorized positions are limited to those that can be financed within available funds, and employment is maintained throughout the year at levels that will preclude the need for RIFs or other disruptive or uneconomical actions to remain within approved ceilings.

A-64 refers to A-76 and requires that before an activity is reviewed for possible contract action, current organization staffing and work methods should be evaluated to determine the most efficient means of government performance. A-64 notes that after such evaluation, if the cost comparison done under A-76 shows in-house performance to be more economical, the activity must be reviewed periodically to ensure that it is being performed within proposed staffing levels and at the cost estimated.

Office of Personnel Management Requirements for Conducting RIFs

Office of Personnel Management requirements and procedures for conducting RIFs are found in 5 C.F.R. 351. Federal agencies subject to Office of Personnel Management's RIF regulations must follow them when separating employees because of shortage of funds, an insufficient personnel ceiling, lack of work, reorganization, reclassification due to erosion of duties, or the exercise of reemployment rights. The regulations state that when an agency determines a RIF is necessary, the agency must (1) decide which positions will be abolished, (2) determine which employees will lose or change jobs, (3) determine whether employees who lose their jobs have rights to other positions, (4) issue notices to the affected employees at least 30 days before the reduction is scheduled to take place, and (5) assist employees in finding other jobs.

Federal Procurement Requirements

The Federal Acquisition Regulations, 48 C.F.R., parts 1-99, govern federal agencies' acquisition of supplies and services. The regulations promote full and open competition for all acquisitions except, among others, contracts awarded using small purchase procedures (those procedures prescribed for acquiring supplies, nonpersonal services, and construction in the amount of $25,000 or less); contracts awarded under the Small Business Administration 8(a) program; and contract modifications that are within the scope and under the terms of an existing contract. The regulations prescribe policy and procedures for modifying existing contracts. In addition, the regulations provide policy and guidance for soliciting small business contracts.

Conduct of A-76 Reviews and Resulting Contract-Out Actions

Both Western and Morgantown Center conducted work force reviews and subsequently contracted out work that had been done in-house. Apparently most of Western's staffing position evaluations were done through an A-64 review. However, according to Western officials, the A-64 study had been conducted informally, and they were unable to provide us with any documentation of the review. The officials told us that after an A-64 staffing position evaluation, they used A-76 principles in making decisions on whether the work should be done in-house or by contractors. Morgantown Center officials made contract decisions on the basis of A-76 guidance after a 1984 DOE work force review.

Western's Review Procedures

According to Western officials, Western's decision to take RIF actions on the 13 positions and subsequently contract for or plan contractual arrangements for the work of all but 1 of those positions was based primarily on the results of a long-term and ongoing A-64 review and the application of A-76 review principles. In November 1985 Western's authorized fiscal year 1986 staffing ceiling was reduced and established by DOE at 1,379. As a result of the work force review, Western officials determined that 14 positions either were not needed or that the associated work could be done by contractors. In December 1985 Western identified 4 additional positions that could be considered for a RIF, bringing the total to 18. However, according to the officials, retirements, shifts to other positions, and deferrals of actions reduced the number of occupied positions considered for a RIF to 13.

Because Western's review fell within exceptions provided for in A-76, cost comparisons were not required, and only a few of the steps in an A-76 review applied to the decision to contract out work. These steps related to (1) inventorying and scheduling for review those activities considered commercial, (2) determining the type of procurement action to be taken, and (3) assessing the reasonableness of contract cost estimates for small activities. Western officials generally completed these steps, but in six cases they did not inventory or schedule the positions for review as required in A-76. In addition, in these six cases, Western officials did not advertise their contracting plans in the Federal Register or the Commerce Business Daily as they had with the other seven positions. With respect to determining whether to contract for services, we noted that under A-76, formal cost comparison studies are not required to reach contract-out decisions when contracts are awarded (1) under preferential procurement programs or (2) for small activities.

In all but one case (an illustrator position in Boulder City, which was abolished without subsequent contract action), Western established or planned for contractual arrangements that involved either preferential procurements or small activities, and thus did not require formal A-76 cost comparisons. Although Western officials informally compared the costs of in-house and private-sector performance of the work, no requirement existed for them to do so. Consequently, Western's final contracting decisions need not have been based on the results of any cost comparisons.

The 13 positions considered for RIF action consisted of 1 illustrator in Boulder City, Nevada; 2 mechanics in Phoenix, Arizona; 2 painters in Loveland, Colorado; 1 computer specialist in Salt Lake City, Utah; 1 computer operator in Montrose, Colorado; 1 supply clerk in Loveland, Colorado; 2 utilitymen in Sacramento, California; and 2 auto mechanics and 1 helper in Huron, South Dakota.

Once Western had identified the positions that could be abolished and the work that still needed to be done using A-64, Western applied A-76 principles to determine whether it could both accomplish the work requirements and stay within the imposed staff ceiling by contracting out the functions being performed in-house. We determined that some of Western's RIF and contract actions, in effect, resulted in a full-time equivalent position reduction as indicated in the following summary. However, in our view, most of the RIF and contract actions did not effectively reduce the number of full-time equivalent positions involved. A summary of Western's evaluation of each position follows:

Illustrator (Boulder City, Nevada)—On the basis of their A-64 review, Western officials concluded that the work could be done by computers and the position was no longer needed. Accordingly, they abolished the position and initiated RIF procedures without further action. On the basis of Western's conclusion, we determined that this action accounted for a reduction of one full-time equivalent position.

Mechanics (Phoenix, Arizona)—The Western A-64 review, according to officials, showed that two full-time mechanics were not needed and that heavy duty equipment repair service could be obtained on an as-needed basis. Using A-76 principles Western determined that the work was a commercial activity and that a blanket purchase agreement, which provides for intermittent or as-needed contract services, would meet its needs for part-time support. Western also determined that fewer than 10 full-time equivalents were involved and no cost comparison study was

required to support its decision. However, Western officials said that they had done an informal cost comparison that indicated the estimated contract cost would be less than the in-house cost. Accordingly, the officials issued RIF notices to the incumbents and decided to initiate blanket purchase agreements. On the basis of our analysis of contract costs versus in-house costs, we determined that these actions account for a reduction of less than one full-time equivalent position.

Painters (Loveland, Colorado)—Western officials said that the A-64 review of these positions indicated that full-time painters were not required and the office's painting needs could be met on a part-time basis. Consequently, Western applied the A-76 principles in the same manner as was done for the mechanic positions described above. Although Western determined that cost comparisons were not required because a fewer-than-10-position activity was involved, Western did an informal cost comparison, which supported the decision to obtain part-time contractor support. On the basis of their analysis, the officials issued RIF notices to the incumbents and initiated contractual blanket purchase agreements for the intermittent services. We determined that Western's decision to contract out the needed painting services, which Western estimated to be 65 percent of the historical services, accounted for a reduction of approximately one full-time equivalent position.

Computer specialist (Salt Lake City, Utah)—The A-64 review of this position, according to Western officials, indicated that the work performed by this employee was similar to work already being done by a contractor. As a result Western officials believed that it was reasonable to have the incumbent's work performed under the existing contract. Since the decision to contract out was supported by the A-76 principles, Western officials issued a RIF notice to the incumbent and added any needed work to the existing contract.

Computer operator, supply clerk, and utilitymen (Montrose and Loveland, Colorado; Sacramento, California)—Western officials determined that these positions were needed but that they involved duties similar to those already being performed by contractors. Western officials told us that since these contractors qualified under the A-76 preferential procurement program, the decision to contract out without formal cost comparisons was in accordance with the requirements. As with the previously described actions, the existence of fewer than 10 full-time equivalent positions obviated the need for preparation of a cost comparison. Western officials, however, conducted informal cost comparisons for these positions as was done for the other positions. According to

Western officials, the cost comparison for the computer operator showed that contracting for the work was less costly than continuing to do it in-house. The cost comparison for the other three positions, however, showed that contracting out the work was not cost-effective. Contract costs were estimated to be over $12,000 more than retaining the work in-house. Despite the lack of cost-effectiveness, according to Western officials, their decision to contract for the services of the supply clerk and utilitymen was exempted from the A-76 cost-effectiveness requirement because the planned contractor was a qualified minority business firm and the contract-out decision was based on other factors, such as contract consolidation and providing for increased minority business opportunities.

Mechanics and helper (Huron, South Dakota)—On the basis of the A-64 review of the two mechanics and helper in Huron, Western officials determined that light auto repair work would still be required but that the work load would support only two full-time positions. Since similar work was already being performed contractually by a minority business firm, the officials decided to modify the contract to include this additional work. Western officials determined, on the basis of A-76 principles, that these positions had been identified as commercial. Although the proposed contractor was a minority business firm and, accordingly, A-76 did not require a cost comparison, an informal cost comparison showed that it would be cost-effective to contract for these services. Accordingly, Western issued RIF notices to the incumbents.

Although Western had inventoried, scheduled for review, and advertised 7 of the 13 positions contracted for as commercial activities, it had not scheduled the remaining 6 positions for review as required by A-76. Western officials did not initially consider the remaining 6 positions as commercial activities. However, DOE officials determined that all 13 positions that we examined were deemed commercial and said that the review schedule for the 6 unscheduled positions had simply been advanced. We noted, however, that instead of simply advancing the review schedule, in these 6 instances DOE did not complete A-76 procedures, which require that prior to evaluating positions for contracting consideration, the positions should be properly inventoried and scheduled for review. In addition, a cognizant OMB official told us that the review schedule should be advertised in the Federal Register and the Commerce Business Daily to ensure that all interested parties, such as affected employees and employee unions, can be informed of planned or potential contracting actions.

Our examination of Western's cost comparison studies showed that the studies had been developed in a reasonable manner, properly reflected comparisons between comparable in-house and private-sector work units, and reasonably reflected estimated costs and potential savings.

Morgantown Center's Review Procedures

According to Morgantown Center officials, RIF actions were based on the results of an ongoing A-76 review that had started in May 1985. A Morgantown Center official responsible for A-76 reviews told us that in 1984 DOE's Office of Organization and Management assessed and categorized all positions in Morgantown Center to identify which were commercial. The office then notified Morgantown Center that certain listed activities were commercial and requested an analysis to determine whether the functions should be contracted or retained in-house.

A Morgantown Center management committee, formed to assist in an assessment of whether the activities identified by DOE headquarters were, in fact, commercial, concluded that all but two of the identified activities (the electronics and engineering technician functions) should be considered for contract action and initiated the process of evaluating specific positions for possible contract action. In order to maintain required management controls and to effectively perform these functions, according to Morgantown Center officials, the two retained activities required maintenance of an employee-employer relationship that would be lost if the activities were contracted out.

According to the officials, as a result of previous reviews, Morgantown Center had already contracted for most of its other functional areas. The fabrication and assembly function was the last functional area within the Morgantown Center to be reviewed for possible contract-out consideration. The fabrication and assembly function is a mechanical services function and consists of five wage-grade employees—a machinist, a sheet metal mechanic, a welder, a pipefitter, and a welder/pipefitter.

In order to evaluate the fabrication and assembly function for possible contract-out actions, Morgantown Center officials formed a committee to develop a detailed cost comparison (consisting of a determination of the most efficient organization, performance work statements, contractor performance standards, and other A-76 requirements) to determine whether it would be more cost-effective to contract for this work. Morgantown Center officials recognized that because the function involved fewer than 10 full-time equivalent positions, a detailed cost

comparison was not required. However, according to Morgantown Center and DOE headquarters officials, Morgantown Center officials conducted a detailed cost comparison as an extra precaution to ensure that the evaluation was conducted properly. The committee developed the in-house cost estimate on the basis of five full-time equivalent positions and, according to Morgantown Center officials, submitted the information to Morgantown Center's Procurement Division to validate the in-house estimates and to confirm that the function could be added to the existing site support services contract.

After Morgantown Center's Procurement Division confirmed that the function was within the existing scope of work and could therefore be added to the existing contract, it obtained a contract cost estimate from the firm. A comparison of the in-house estimate with the contract estimate showed that contracting for the work of the fabrication and assembly function would be approximately 6 percent more cost-effective than retaining the function in-house. We examined Morgantown Center's cost comparison study and found that the study had been developed in a reasonable manner, properly reflected comparisons between comparable in-house and private-sector work units, and reasonably reflected estimated costs and potential savings.

After verifying the technical and cost feasibility of the contractor's proposal, Morgantown Center officials contracted for the work of the incumbents' positions with the on-site contractor by adding the fabrication and assembly function as a subtask under the existing contract.

Western's and Morgantown Center's Actions Complied With Selected Administrative Requirements

On the basis of our review of RIF documentation and discussions with some affected former Western employees and cognizant agency officials, we concluded that both Western and Morgantown Center were in compliance with required administrative procedures regarding notice and reassignment rights associated with positions subject to our review. We also concluded that the contract modifications were within the scope of the original contracts and made pursuant to "changes" clauses in those contracts. Additionally, we found that when they were used, blanket purchase agreements represented an appropriate type of contract for the work required.

Western

According to Western officials, Western's work force review showed that RIF actions were required in order to stay within its authorized staffing ceiling. Western, therefore, planned to issue RIF notices to 13

employees. As of November 30, 1986, Western had issued RIF notices to 10 of the 13 employees. Three employees (mechanics and helper in Huron, South Dakota) have not been formally notified pending the results of our review. According to a Western personnel official, 4 of the 10 employees who were notified have been separated, and 6 have retired.

On the basis of discussions with both a cognizant Western personnel official and some affected former employees and a review of Western's RIF notices to employees, it appears that Western complied with RIF requirements as set forth in Office of Personnel Management regulations regarding decisions about which employees would lose or change jobs. A Western official explained that in making the RIF decisions, officials first looked at the commuting areas of employees. Employees were then grouped on the basis of competitive levels; next their competitive standing was determined using retention registers. The retention standing of employees on the register, as explained by the official, is mandated by tenure, veteran's preference, and length of service, augmented by credit for performance.

We also noted that Western notified employees at least 30 days before the actual RIF, in accordance with Office of Personnel Management regulations and the applicable DOE order. All entitled employees, according to a Western official, were granted severance pay or afforded full reassignment rights, although most employees involved in the RIF either retired or had a low competitive standing, which reduced their rights to displace other employees.

In one instance, an employee (an auto mechanic in Huron, South Dakota), after being verbally informed that he could be subject to a RIF and separated, believed that he was not given proper hiring consideration for a vacant electrician position in the organization. However, our review revealed that the employee had not been issued an official RIF notice at the time that the electrician position was filled, and at that time, it had not been determined that the employee would be subject to a RIF. We are aware of no provision of law that entitles employees who have not received formal notification of a RIF to notice of vacant positions within an agency for which they might qualify.

In contracting out the work that had previously been done in-house, Western used three of the contract methods authorized by the Federal Acquisition Regulations as exemptions to the normal competitive process. Where blanket purchase agreements and contract modifications

were used, we determined that the use of these methods was appropriate for the type of work involved. We also determined that minority contractors engaged by Western were qualified for preferential procurement programs by confirming their status with the Small Business Administration.

Morgantown Center

On the basis of our review of RIF documentation and discussions with cognizant Morgantown Center and DOE officials, we also determined that Morgantown Center complied with the regulations regarding RIF notice and reassignment rights. According to a Morgantown Center official, the Center decided to contract for services as a result of its A-76 review of the Fabrication and Assembly Shop, which indicated that contracting for the work was more cost-effective. As a result of this decision, RIF actions were initiated because Morgantown Center would no longer require the services of these employees. Five positions were identified for RIF action. Morgantown Center issued RIF notices to all five employees on April 22, 1986, which was at least 30 days prior to the actual RIF as required by Office of Personnel Management regulations and DOE's order.

Morgantown Center appears to have appropriately provided for employees' reassignment rights. Specifically, prior to the May 27, 1986, conversion date from federal to contractor performance, three employees declined reassignment and accepted offers from the contractor to perform Morgantown Center's fabrication and assembly function. Two employees accepted reassignment offers to positions as engineering technicians in the Morgantown Center Engineering Test Section.

Morgantown Center replaced its in-house fabrication and assembly function by modifying an existing contract. We examined the scope of work the on-site contractor was performing and determined that adding the work of the fabrication and assembly function as a subtask appeared reasonable.

Conclusions

With respect to RIF and contract-out actions, it appears that both Western and Morgantown Center officials properly implemented the actual RIF process and made appropriate contracting-out decisions. However, we determined that as a result of its RIF and contract actions, Western only partly achieved DOE's stated objectives of increased efficiency, productivity, and cost reduction. By contracting for most of the

work of the abolished positions, Western did not fully achieve the level of increased efficiency, productivity, or cost reduction envisioned by DOE if staffing had been reduced by 13 positions without subsequent contract actions. In 1 of the 13 cases, Western determined that the existing position was not needed. In four additional cases, Western officials determined that the functions were needed but not on a full-time basis. In the remaining eight cases, Western determined that the functions were fully needed and the work should be contracted for because (1) it was similar to work already under contract or (2) contracting for the work would provide for additional minority business opportunities. We calculated that Western, by contracting for the work of abolished positions, in effect reduced its personnel costs by less than 3 full-time equivalent positions rather than the 13 positions involved in the DOE-directed ceiling reductions.

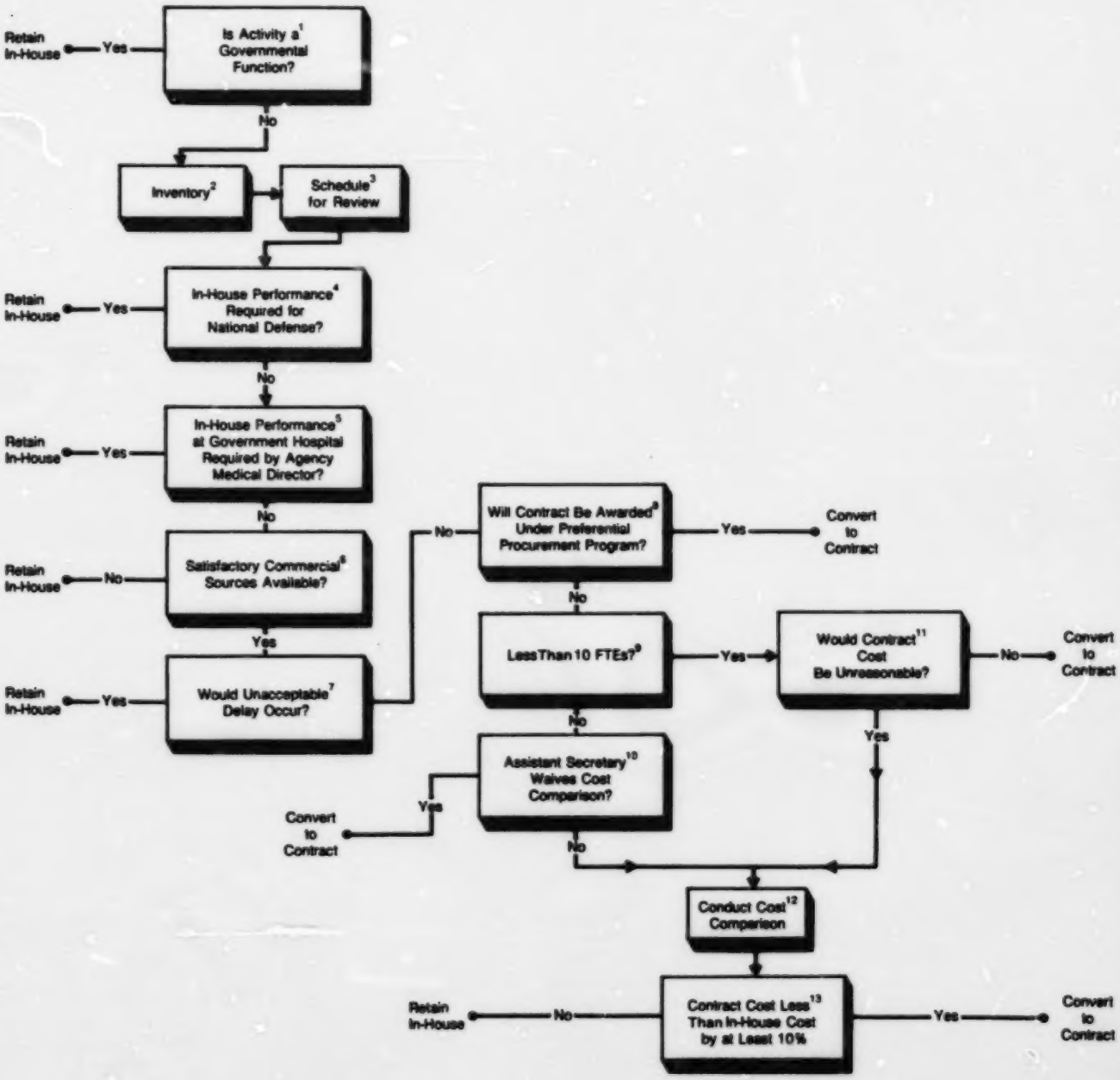
Further, in 6 of 13 cases, Western's evaluation was conducted before the positions had been properly inventoried or scheduled for review as required by A-76. In addition, according to an OMB official, A-76 procedures require that prior to evaluating positions for contracting consideration, the positions should be properly listed in the Federal Register and the Commerce Business Daily with a schedule for the review. The OMB official told us that this requirement exists to ensure that all interested parties can be informed of planned or potential contracting actions. DOE officials told us that all 13 of the positions we examined were deemed commercial and that in the 6 cases in question, the review schedule had simply been advanced prior to the positions' being inventoried or advertised.

Finally, because of the exceptions provided for in A-76 regarding the need for cost-based contracting decisions when small organizational units and preferential procurements are involved, neither Western nor Morgantown Center was required to conduct formal cost comparisons. Accordingly, neither program office was obligated to base its contracting and RIF decisions on cost-effectiveness. In addition, as previously mentioned, Western officials told us that many positions had been abolished primarily to utilize on-site contractors who were already performing similar work and to provide additional contracting opportunities for small and minority businesses. Western realized an overall cost savings as a result of contracting for the work of these positions. However, because of contracting objectives and exceptions provided for in A-76, Western abolished three filled positions (a supply clerk position in Loveland, Colorado, and two utilityman positions in Sacramento, California) and contracted for these services even though Western's own

cost comparisons indicated that in these three instances, in-house performance was over $12,000 more cost-effective.

A-76 Implementation Flow Chart and References

Figure II.1: Implementation of OMB Circular No. A-76, Existing Government Activities and Expansions



Flow Chart References

Block No.

(1) Agencies are required to determine which activities are governmental functions that must be performed by government employees. Those activities that are not governmental functions are commercial activities and may be performed by government employees or by contract.

(2) Commercial activities must be inventoried. There are two inventory lists: one for activities having 10 or fewer full-time equivalent positions and one for activities having more than 10 positions.

(3) Commercial activities on the inventory lists must be scheduled for review. According to an OMB official, the schedules must be published in the Commerce Business Daily and the Federal Register to ensure that all interested parties can be informed of planned contracting actions.

(4) Department of Defense agencies only must determine if the activity must be performed by government employees for national defense purposes.

(5) For government-operated hospitals only, the agency's chief medical director must determine if a service must be performed in-house because it is needed to maintain the quality of direct patient care.

(6) Agencies must determine if government performance is necessary because no satisfactory commercial source exists to do the work.

(7) Agencies must determine if government performance is necessary because contractor performance would cause unacceptable delays.

(8) Agencies must determine if the function should be contracted out under a mandatory source program or noncompetitive preferential procurement program. If procurement action is taken under a mandatory source or noncompetitive program, no cost study is required.

(9) If the activity employs 10 or fewer full-time equivalent positions, the agency should skip step 10 and go to step 11. If the activity employs more than 10 such positions, the agency goes to step 10.

(10) Agencies are required to determine whether it is appropriate to waive the requirement for a cost comparison and go directly to contract. Waiver requires approval at the Assistant Secretary level or above. If a waiver is not obtained, agencies go to step 12.

(11) Agencies are required to determine if meaningful and effective private-sector competition will ensure reasonable prices. According to an OMB official, the requirement to ensure that contract costs are reasonable requires that an agency determine whether a competitive market exists for the function in question. The official said that if two or more firms in a local area can provide the required services, it is assumed that the indicated competition will ensure reasonable prices. If fewer than two firms can provide the services, an agency would be required to go to the next step in the process and conduct a formal cost comparison of the in-house and estimated contractor costs.

(12) Agencies are required to perform a cost comparison of in-house versus contract costs in accordance with parts II, III, and IV of the supplement to A-76.

(13) If the total contract costs are less than the total in-house cost estimate by 10 percent of government personnel costs, the agency may award a contract. If not, the activity should remain in-house to be performed in accordance with the reorganization plan.

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